

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part I. I. Office of the Secretary**  
**Subpart 1. Departmental Administrative Procedures**

**Chapter 5. Confidential Information Regulations**

**§501. Scope**

Department of Environmental Quality records and information obtained under the Louisiana Environmental Quality Act (hereinafter called "the Act"), or by any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any investigation authorized thereby, shall be available to the public, unless confidentiality is requested by writing to the department's Office of Legal Affairs and Enforcement, Legal Division, and such information is determined by the administrative authority to require confidentiality. Such information may be classified as confidential by the administrative authority, unless otherwise provided by law or regulation, if the secretary makes a written determination that confidentiality is necessary to:

1. prevent impairment of an ongoing investigation or prejudice to the final decision regarding a violation; or
2. protect trade secrets, proprietary secrets and information, and commercial or financial information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

**§503. Request for Confidentiality**

A. Anyone outside the department requesting confidentiality shall provide to the administrative authority a written statement indicating the reasons for asserting confidentiality. This claim of confidentiality shall state:

1. the measures taken to guard against undesired disclosure of the information to others;
2. the extent to which the information has been disclosed to others and the precautions taken in connection therewith;
3. whether disclosure of the information would be likely to result in substantial harmful effects in the competitive market, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects; and



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4. the period of time for which confidential treatment is desired.

B. Anyone outside the department submitting information to the administrative authority for which a confidentiality claim is asserted shall follow the procedures outlined below:

1. a cover sheet shall be attached to the information, which has been conspicuously labeled with the word "CONFIDENTIAL." Each page or any item (e.g., pictures, maps, video tapes, computer disks, etc.) that contains alleged confidential information shall also be clearly labeled;

2. to the maximum extent possible, confidential information shall be segregated to facilitate identification and handling. The confidential information shall be specifically referenced as appropriate in the nonconfidential document. Blacking out confidential portions of otherwise public documents is permissible, provided the blacked-out portions are clearly identified in both confidential and nonconfidential versions; and

3. in cases where confidential information cannot be reasonably extracted or separated from nonconfidential information, and when the information does not include information described in LAC 33:I.505.B, the whole document shall be confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22.

**§505. Agency Review of Confidential Information**

A. Within 21 working days from the date of receipt of a request for confidentiality, the secretary shall issue a written notice of determination. Anyone outside the department will be notified by certified mail.

B. Specific categories of information that shall be denied confidentiality include:

1. air emission data;
2. any permit or portion of a permit issued to a source in accordance with LAC 33:III.507;
3. effluent and discharge data to surface waters and groundwaters;
4. location and identification of any buried waste;
5. name and address of any license, registration or permit applicant or permittee;

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6. all NPDES, LPDES, and other water discharge permit applications or permits. Information required by LPDES application forms may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms; and

7. any other information required by the law or regulations to be disclosed or for which a claim of confidentiality is prohibited by law or regulation.

C. The notice of determination shall become final and not subject to further administrative review unless, no later than 30 days after receipt of this document, the submitter files a written request for a hearing.

D. Information submitted under a claim of confidentiality shall be held as confidential until a final determination has been made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

**§507. Authorized Agent Accessibility**

A. In the event a claim of confidentiality is granted, such confidentiality shall not apply to the necessary use of the information by duly authorized officers or employees of the state or federal government in carrying out their responsibilities under the Act or applicable federal law. Any officer or employee of the state or federal government who seeks access to such information must be duly authorized by the administrative authority. The administrative authority shall make a determination to grant such authorization based on a written request that shall specify the requestor's name, affiliation, and the need for access to the information based on the Act or applicable federal law. Department employees are exempt from requesting authorization in writing; however, they must demonstrate a need for access to confidential information prior to seeking administrative authority approval.

B. Any employee of the department or any former employee of the department or any authorized contractor acting as a representative of the secretary of the department who is convicted of intentional disclosure or conspiracy to disclose trade secrets or other information that has been determined to be confidential is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$1,000, imprisonment for up to one year, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030 and R.S. 30:2074

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

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**§508. Maintenance of Confidential Information**

A. Confidential information shall be maintained in a locked file separate from nonconfidential information. The file shall be labeled "CONFIDENTIAL," with access appropriately controlled.

B. Whenever an authorized person gains access to a confidential file, he shall sign an access log, which indicates his understanding of the confidential status and his responsibility to protect the information from being disclosed to the public. The person will also indicate in the access log which file was removed, the date and time the file was removed, the affiliation of the person if not with the Department of Environmental Quality, and the time and date the file was returned.

C. Except for members of the department staff, authorized persons shall review a confidential file in the presence of a department staff member. Confidential information shall be removed from the file no longer than is strictly necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:

**§509. Release of Confidential Information**

A. The administrative authority shall remove confidential information from its files and return it to the submitter if such information is no longer necessary or required after three years for the purposes of the Act, these regulations, or any order or under the terms and conditions of any license, registration, or permit.

B. Files declared confidential as part of an investigation shall be returned to the public record files upon conclusion of the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22: